

TANK NOTES

STATE OF
NEW MEXICO
ENVIRONMENT
DEPARTMENT



... A Newsletter from
the Underground
Storage Tank Bureau

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STATE PREPARES TO ENFORCE DECEMBER 22ND DEADLINE

*by Thomas Skibitski, Manager
Prevention and Inspection Program*

The December 22, 1998, deadline for compliance with underground storage tank upgrade requirements will be a day of reckoning for some facility owners and operators who have not been resolute in their efforts to bring their tank systems in line with the longstanding requirements.

The Environment Department's Underground Storage Tank Bureau is actively inspecting and identifying noncompliant facilities and will likely take the enforcement actions described in this article.

In the weeks before the deadline, the UST Bureau will notify facilities known to be out of compliance by certified mail informing them of their status and of the Department's intent to pursue one of the following courses of action.

- ♦ The Department may issue Compliance Orders or take similar actions requiring immediate shutdown of facilities and imposing financial penalties for days beyond December 22, 1998, that the tanks are operated out of compliance. Such administrative orders will remain in effect until compliance is achieved through upgrading of the UST system, or its removal or permanent closure.
- ♦ In certain situations, the Department may go to district court for an order for immediate shutdown of facilities. Shutdown will remain in effect until compliance is achieved.
- ♦ Part Eight of the New Mexico Underground Storage Tank Regulations (20 NMAC 5.8) allows temporary closure of an UST system for a period of up to twelve months, during

which time the owner or operator may permanently close, remove or upgrade the UST system. Specific actions must be taken to ensure the tank system remains out of service during the temporary closure period. Notice prior to December 22 is required for approval of this option.

During the ten years leading up to this December 22 deadline, the New Mexico Underground Storage Tank Bureau has actively enforced the deadlines for each phase of upgrading UST systems, including the deadlines for line leak detection and tank leak detection. The Bureau will follow through with the enforcement of this deadline, aiming to achieve compliance at all sites with regulated UST systems in New Mexico.

As it has since 1991, the New Mexico Environment Department will continue to maintain primacy in the enforcement of the UST regulations. However, the U.S. Environmental Protection Agency can step in. The federal agency has repeatedly stated that time extensions beyond the deadline will not be granted to out-of-compliance systems. EPA also states that it fully intends to take its own enforcement actions when appropriate or necessary, at the state's request. Sub-standard facilities operating beyond the deadline will be subject to federal monetary penalties of up to \$11,000 per day per violation for periods of noncompliance. EPA actions will be taken in federal court rather than in state court.

As always, the Bureau appreciates the voluntary cooperation of the majority of the regulated community, whose efforts to upgrade their facilities have prevented many new releases from contaminating public resources.

TANK NOTES

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This newsletter is for the UST owner/operator population and is provided as a general information guide only. It is not intended to replace, interpret or modify manufacturers' protocols, or the rules, regulations or requirements of local, state or federal government, nor is it intended as legal or official advice. The opinions expressed in articles written by NMED staff and others are those of the authors and do not necessarily reflect those of NMED.

We welcome your comments and suggestions. Send address changes and correspondence to: New Mexico Environment Department, Underground Storage Tank Bureau, Harold Runnels Building, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502.

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NOTES FROM THE DEPARTMENT

The Environment Department and the Underground Storage Tank Bureau have recently undergone some changes in management.

Effective June 29, 1998, Stephen Reuter was appointed Manager for the Remedial Action Program. Mr. Reuter was a Team Leader for two years in the program prior to his promotion. Thomas Skibitski was appointed Manager for the Prevention and Inspection Program. Mr. Skibitski brings a strong background from private industry to the Bureau. Dan Lopez was appointed on June 29 to an Environmental Supervisor position for the Prevention and Inspection Program in the District I Field Office. Mr. Lopez has been with the Bureau since May 1993 as a field inspector in District I.

On July 27, 1998, following the sudden death of Secretary Mark Weidler, Peter Maggiore was named Cabinet Secretary Designee for the Environment Department. Mr. Maggiore was previously Director of the department's Environmental Protection Division and Director of the Economic Development Department's Science and Technology Division. Effective August 10, 1998, J. David Duran was appointed by Secretary Maggiore to be Director of the Environmental Protection Division, which includes the Underground Storage Tank Bureau. Mr. Duran was the Chief of the UST Bureau for two years prior to this appointment and has over twenty-seven years of experience in the agency.

To fill the void left with the departure of Mr. Duran, Jim Najima was appointed as Acting Chief of the UST Bureau. Mr. Najima is the Manager of the Financial Management Program and has been with the Bureau since October 1997.

Remedial Action

Administrative streamlining is now in effect which should result in an increase in remedial action workplan approval letters going out for both state-lead and responsible party-lead projects. In addition, signature authority for these letters has been returned by the Department to the Bureau because of the technical and financial controls the Bureau has implemented recently.

Financial Management

The Corrective Action Fund is healthy, with a reported end-of-fiscal-year, unobligated balance of \$9 million. Because the unobligated balance exceeds \$6 million, the Petroleum Products Loading Fee will be reduced from \$150 per load to \$120 per load of petroleum product. The

reduced fee, effective October 1998, is expected to generate \$1.1 million per month, compared to \$1.5 million under the previous rate. The Department expects that there will be sufficient funds to cover corrective action activities statewide, assuming claims come in at the same rate as the last fiscal year.

Prevention and Inspection

The Environment Department will be taking a strong enforcement posture regarding the December 22, 1998 deadline for upgrades. An enforcement procedure has been prepared and will be implemented for non-compliant facilities.

Regulations and Data Management

Draft changes for selected parts of the UST regulations are out for informal public comment. The Department encourages you to review the proposed changes and convey your comments to the Bureau this fall. Proposed changes include the implementation of risk-based corrective action and modifications to the fund payment regulations. Download the parts you want to review from the Department's web site or pick up a copy in Santa Fe or at the Albuquerque office.

LATEST COMPLIANCE STATISTICS

by Thomas Skibitski, Program Manager, Prevention and Inspection

- ♦ Based on information available as of Sept. 14, 1998, there are 4,252 active, regulated, underground storage tanks at 1,540 facilities in New Mexico.
- ♦ Approximately 66% or 2,791 tanks at 983 facilities are in compliance with the 1998 standards.
- ♦ Approximately 34% or 1,461 tanks at 557 facilities are not in compliance with the 1998 standards.
- ♦ Facilities in compliance on July 1, 1998, are issued green colored tank registration certificates which are valid until June 30, 1999.
- ♦ Facilities not in compliance as of July 1, 1998, are issued red colored tank registration certificates which will expire December 22, 1998.

Post-1998 Fuel Scarcity in Rural New Mexico – Myth or Reality?

By Gary Blocker, Supervisor in the Prevention and Inspection Program

Since the United States Environmental Protection Agency first promulgated the underground storage tank regulations, one of the concerns frequently voiced was, "What impact will these regulations have on the small, "Mom and Pop" service stations and the communities they serve?"

Many worried that rural communities would be left without local supplies of fuel, as the cost of complying with the regulations drove many small stations out of business.

To see if this has come to pass now that the December 22, 1998, deadline is almost here and all active underground storage tank systems must meet "new" tank standards or must be removed from service, *Tank Notes* recently conducted an informal survey of New Mexico's smaller rural communities. Representatives of local governments, chambers of commerce, fire departments, UST owners/operators, and community leaders were asked to comment on the impact of the UST regulations on their communities. The survey did not include Indian lands.

The results of the survey indicated that, while the regulations have had an impact on the service station owners in these communities, the market demand for fuel has not declined and retailers are finding ways to supply fuel. Two strategies were apparent.

First, as service stations closed, convenience stores or card system self-service facilities sometimes replaced them. These new facilities either installed new underground storage tank systems or upgraded the existing systems. As a result, in some areas there will be fewer but larger, more "high-tech" stations, making fuel available but also requiring that drivers plan ahead for their fuel purchases in order to avoid emergencies.

Second, when the cost of upgrading has been the most important consideration, some suppliers with low-volume throughput have switched to above ground storage tank systems as an alternative to upgrading or replacing their UST systems. Most of the communities surveyed allow the use of ASTs as an alternative to USTs. The fire departments in these communities, which are usually volunteer, have the responsibility for regulating the installation of the ASTs.

To summarize, while there are changes for many of the older "Mom and Pop" service stations, market forces or conversion to ASTs have resulted in continued rural fuel supplies.

**THE END IS
IMMINENT. . .
COUNTING DOWN
TO DECEMBER
1998**

What's New at the Web Site

by Jenny Smith, Database Administrator

♦ Proposed changes to the UST regulations - 20 NMAC 5 parts 1, 2, 6, 7, 8, 9, 10, 12, 14, 15, 16, and 17 and proposed *Guidelines for Corrective Action*. See <http://www.nmenv.state.nm.us/ust/draftreg.html>

♦ Bid evaluation scoresheet forms have been updated. See <http://www.nmenv.state.nm.us/ust/cafbid.html>

♦ Firms accepting direct payment have been added to the list of firms employing Certified Scientists. See <http://www.nmenv.state.nm.us/ust/certsci.html>

♦ Power Point presentations of some state-led LUST sites. See <http://www.nmenv.state.nm.us/ust/statlead.html>

♦ Spring 1998 *Tank Notes*, Postscript format. See <http://www.nmenv.state.nm.us/ust/tanknote.html>

♦ May 1998 UST Committee meeting minutes. See <http://www.nmenv.state.nm.us/ust/ustcmin.html>

♦ Frequently updated requests for proposals and announcements. See <http://www.nmenv.state.nm.us/ust/rfp.html> and [announce.html](http://www.nmenv.state.nm.us/ust/announce.html)

Tank Integrity Assessments Required for Installation of Cathodic Protection

by Thomas Skibitski, Manager,
Prevention and Inspection Program

Ever since the final rule for the regulation of underground storage tanks was published in the Federal Register on September 23, 1988, some form of tank integrity assessment has been required before the owner could upgrade an existing UST system with cathodic protection.

A number of alternatives to invasive, visual inspection methods have been accepted by individual states and the

EPA. Some of these methods have obtained independent, third party certification and these are acceptable to the UST Bureau. The Bureau will also accept the results of tank integrity assessments that meet or exceed the requirements of the ASTM ES 40 standard, even though ES 40 (also known as ES 40-94) has expired and is yet to be replaced with a permanent standard.

An affidavit signed by the qualified contractor performing the assessment and stating that the procedure used meets or exceeds ES 40 standards is acceptable to the Bureau. The statement must be attached to or made part of the report submitted to the Bureau's Prevention and Inspection staff prior to the installation of cathodic protection.

LEAK O' THE WEEK

Report releases to the following staff during working hours. For emergencies during evenings and weekends, call the NMED emergency number, 827-9329.

Oct 12 - Oct 16	Lisa Schall	827-2916
Oct 19 - Oct 23	Rita Alexander	841-9349
Oct 26 - Oct 30	David Nye	841-9478
Nov 02 - Nov 06	Norman Pricer	841-9189
Nov 09 - Nov 13	Steve Jetter	841-9461
Nov 16 - Nov 20	Tom Leck	841-9479
Nov 23 - Nov 27	Lisa Schall	827-2916
Nov 30 - Dec 04	Lorena Goerger	827-0110
Dec 07 - Dec 11	Rita Alexander	841-9349
Dec 14 - Dec 18	David Nye	841-9478
Dec 21 - Dec 25	Brian Salem	827-2926
Dec 28 - Jan 01	Jane Cramer	841-9477
Jan 04 - Jan 08	Rita Alexander	841-9349
Jan 11 - Jan 15	Tom Leck	841-9479
Jan 18 - Jan 22	David Nye	841-9478
Jan 25 - Jan 29	Christian Carlsen	827-2914
Feb 01 - Feb 05	Lorena Goerger	827-0110
Feb 08 - Feb 12	Norman Pricer	841-9189
Feb 15 - Feb 19	Steve Jetter	841-9461
Feb 22 - Feb 26	Tom Leck	841-9479
Mar 01 - Mar 05	Brian Salem	827-2926
Mar 08 - Mar 12	Jane Cramer	841-9477
Mar 15 - Mar 19	Lisa Schall	827-2916
Mar 22 - Mar 26	Rita Alexander	841-9349
Mar 29 - Apr 02	David Nye	841-9478

1998 Underground Storage Tank Conference

November 16–17, 1998

Courtyard by Marriott at the Journal Center ♦ 5151 Journal Center Boulevard ♦ Albuquerque

Continuing Education Hours (CEHs). Please sign in at every session attended, as CEHs will be given accordingly.

Information. For additional information and assistance, call Jim Najima, Conference Coordinator, at 505/827-0188.

Registration. No fee. Pre-register by October 23, 1998 using the attached form or register on the day(s) of the conference. Admittance is subject to space availability. Pre-registration is encouraged.

Rooms. Registration does not include overnight room reservations. Please make room reservations directly with the Marriott Courtyard at Journal Center by calling 505/823-1919 or 1-800-321-2211. Be sure to mention the NMED conference. A limited number of rooms have been blocked at a rate of \$87 per night and must be reserved by October 25.

Bureau Expands Continuing Education Options for Certified Installers

*by Thomas Skibitski, Manager,
Prevention and Inspection Program*

The UST Bureau has expanded its interpretation of what programs qualify as acceptable for meeting the continuing education requirements for certified tank installers. The Bureau will now accept, in addition to department-sponsored seminars, documented, job-related safety training conducted within the installer's company. Such training could be in the form of documented "tool box talks," "tailgate safety meetings," or classroom training such as HAZCOM training and refreshers, or OSHA 40 hour training, or training in excavation safety, hoisting and rigging, crane operator certification, working in hazardous or explosive atmospheres, confined space training, or electrical safety.

The Bureau will also accept product-specific training in the proper installation and maintenance or repair of equipment sponsored by the equipment's manufacturer. In most cases, the Bureau will approve hour-for-hour credit. The intention of the continuing education requirement is to satisfy the need for keeping skills current and applicable.

Under Part 14 of the UST Regulations (20 NMAC 5.14) the Bureau certifies tank installers at two levels. Certified Individual-Level A installers are authorized to install and repair UST systems in New Mexico.

Certified Individual-Level B installers are authorized to replace or install equipment on UST systems. They cannot install or repair UST tanks or lines but they can

install or repair such equipment as overfill and spill containment devices, line and tank leak detectors, submergible pumps and drop tubes, and spill containment devices. A Certified Individual-Level B installer is not authorized to install or repair UST tanks or lines.

To qualify for renewal, a Certified Individual-Level A must:

- ♦ apply for renewal on a form provided by the Department, accompanied by a nonrefundable fee of \$100;
- ♦ demonstrate that the installer has completed at least three UST system installations or repair projects during the twelve-month period preceding the application;
- ♦ demonstrate that the installer has completed fifteen hours of Department-approved continuing education in the two-year period preceding the application.

To qualify for renewal, a Certified Individual-Level B must:

- ♦ apply for renewal on a form provided by the Department, accompanied by a nonrefundable fee of \$50;
- ♦ demonstrate that the installer has completed at least three UST system installations or repair projects during the twelve-month period preceding the application;
- ♦ demonstrate that the installer has completed eight hours of Department-approved continuing education in the two-year period preceding the renewal application.

If you have any questions about whether certain training programs meet the continuing education requirement, please do not hesitate to call Tom Skibitski directly at (505) 827-2910 or contact your friendly neighborhood USTB inspector.

Conference Agenda

Monday, November 16

7:30-8:30 **Registration** - Receive conference packet

8:30-9
Kokopelli **Opening Plenary Session**
J. David Duran, Director, EPD
Ruben Baca, Director, NMPMA

9-9:45
Kokopelli **Keynote Speaker**
NMED Secretary Peter Maggiore

9:45-10 Break

10-10:45 **NMED Vision of the Future**
Robert Horwitz, Director, ASD

10:45-11:30
Kokopelli **Enforcement: What Happens on
December 23, 1998**
Tom Skibitski, Manager,
Prevention/Inspection

11:30-1 Lunch (on your own)

1-2
Concurrent **MTBE panel discussion**
Stephen Reuter, Moderator

Initial Abatement panel discussion
Rita Alexander, Moderator

2:15-3:30
Concurrent **Free Product panel discussion**
Pat DeGruyter, Moderator

**Active Remediation vs. Natural
Attenuation panel discussion**
Joyce Castro-Shearer, Moderator

3:30-4 Break

4-5
Kokopelli **Benzene Isn't Always Benzene**
Pinnacle Labs
Mitchell Rubenstein, Ph.D.

Tuesday, November 17

8-9:30
Kokopelli **Air Based In-Situ Soil Remediation
Workshop**
Chevron
Thomas Pearnin

9:30-10 Break

10-12:30 **Air Based In-Situ Soil Remediation
Workshop** (continued)

12:30-1:30 Lunch (on your own)

1:30-5
Kokopelli **New Mexico Risk-Based Corrective
Action Workshop** (please bring your own
calculators)
Atul Salhotra, Ph.D., RAM Group

Constant Sessions

Lobby:

- ♦ Conference Registration
- ♦ USTB Staff
- ♦ Communication Center
- ♦ Certified Scientist Continuing Education Hours
- ♦ USTB Handouts
- ♦ New Financial Management Program Forms
- ♦ Pollution Prevention

Taos Room (west side):

- ♦ Regulation Update
- ♦ Web Site

Pecos Room (west side):

- ♦ Speaker Prep Room

Rio Grande Room/Rio Chama (east side):

- San Juan Room (east side upstairs)
- ♦ Impromptu Meetings

Conference Adjourns at 5 p.m. on Tuesday, November 16

No FEE

Registration Form

No FEE

Please print legibly (for conference badge)

Please mail before October 23, 1998

Name _____

Company _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____ E-Mail _____

Please indicate if you will be attending the
following workshops on Tuesday:
☐ Air Based In-Situ Soil Remediation
☐ NMRBCA

**UPGRADE BY
DECEMBER 22, 1998**

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